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PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ID #2986

ENERGY DIVISION **RESOLUTION E-3847**

December 18, 2003

R E S O L U T I O N

Resolution E-3847. Pacific Gas and Electric (PG&E) seeks approval to revise Electric Rate Schedule E-NET – Net Energy Metering, to estimate the departed load of net-metered solar and wind customer-generators for the purpose of calculating the Public Goods Charge (PGC), in response to Assembly Bill 58.

This Resolution rejects PG&E's proposed method of calculating the PGC, and reaffirms the PGC will continue to be calculated based on the customer's net consumption.

By Advice Letter 2405-E, filed by PG&E on August 5, 2003.

Assembly Bill (AB) 58 amended Public Utilities Code Section 2827, which governs California's net metering program for eligible solar and wind generating facilities. Net metering allows eligible customers to generate power to serve onsite load, and receive utility bill credits at the retail rate for excess capacity sent back through the grid.

Among other things, AB 58 retains the temporary customer eligibility requirements adopted in AB X1-29, declares that net metering and co-metering customers shall not be exempt from the Public Goods Charge (PGC), and that these customers shall not be required to install meters that could determine the basis to calculate the PGC.

In AL 2405-E, PG&E proposes to estimate a net metering customer's departing load for purposes of calculating the PGC. This Resolution rejects PG&E's proposed method of calculating the PGC, and reaffirms that the PGC will continue to be based on the customer's net consumption.

BACKGROUND

On September 24, 2002, Governor Davis signed AB 58 into law. AB 58 amended Section 2827 of the Public Utilities Code regarding the responsibility of net metered customers to pay public goods charges and Department of Water Resources (DWR) charges. The bill added the following provisions:

- Net metered customers will pay nonbypassable DWR costs as determined by the Commission.
- Net metered customers are not exempt from the public goods charge.
- The Commission will submit a report to the Legislature by January 1, 2005 which examines methods to ensure the PGC remains a nonbypassable charge, and assesess the economic and environmental costs and benefits of net metering to customer-generators, utilities, and ratepayers.
- If the CPUC finds any costs incurred by the utility that are not recovered from net-metering or co-metering customers, the CPUC will ensure those costs are not shifted to another customer class.

PG&E's Advice Letter 2405-E proposes to estimate the net metered customer's departing load by assuming the generator's output to be equal to five hours per day (10:00 am – 3:00 pm), multiplied by the rated alternating current capacity. Customers with generators over 30kW would have the option to voluntarily install a net generation output meter, at the customer's expense, to determine departing load.

NOTICE

Notice of Advice Letter 2405-E was made by publication in the Commission's Daily Calendar. PG&E states that a copy of the Advice Letter was mailed and distributed in accordance with Section III-G of General Order 96-A.

PROTESTS

PG&E's Advice Letter 2405-E was timely protested by California Solar Energy Industries Association (CALSEIA), Cooperative Community Energy (CCE), Denise Devlin, Duane Deister, Marin Solar, Michael Kuddes, andSunStar Energy.

Late protests were received from Clean Power and Greg Williams (e-mail).

PG&E responded to the protests of Marin Solar, SunStar Energy, CCE, CALSEIA, Denise Devlin, Michael Kuddes and Clean Power, on September 2, 2003, and to Greg Williams on September 11, 2003.

The protestants argue that the proposed PGC calculations are not required by AB 58, and are at odds with California's demonstrated support for net metering and renewables:

- All protestants generally observe that California encourages solar installations with rebates and tax credits, and that departing load fees are counterproductive to that aim. Once in place, these fees could be increased to the point of rendering solar systems economically useless.

- CALSEIA contends that California's net metering law only requires a meter capable of registering two-way flow of electricity, and the customer will pay charges for all retail rate components based exclusively on net consumption over a 12-month period.

- CCE, Clean Power, and Marin Solar claim the Commission exempted customer-generators eligible for net metering from all departing load charges, that there is no accepted method for estimating departing load, and that any method will be inherently unfair because it will have no means of verification or validation for individual customers. The cost of a meter to measure departing load would represent an undue burden on the customer, and is particularly egregious considering the small amount of PGC that would be collected.

DISCUSSION

Energy Division has reviewed Advice Letter 2405-E and the protestants' letters. Discussion of the relevant issues raised in the protests that lead to the rejection of PG&E's Advice Letter is set forth below.

Net metering and co-metering customers shall not be exempt from the public goods charge. In its report to the Legislature, the commission shall examine diferent methods to ensure that the public goods charge remains a nonbypassable charge. (§2827[k]).

PG&E states that the utility has not previously charged net-metered customers for the PGC. PG&E emphasizes that the Legislature specifically addressed the PGC for the first time in AB 58. PG&E believes the legislation is clear that net metering customers are responsible for the PGC based on departed load, since there is no need to use the term "nonbypassable" except in the context of departing load.

Energy Division contends that net metering and co-metering customers have never been exempt from paying the PGC. As CALSEIA's protest indicates, PU Code § 2827(g) requires these customers to pay all retail rate components, which includes PGC, based on their net kWh consumption over a 12-month period. The utility is unable to accurately measure departing load, as AB 58 specifically prohibits any requirement for net-metered customers to install a meter to measure departing load.

PG&E acknowledges that although the utility would prefer that customers install meters capable of measuring departing load, such metering equipment is not required by AB 58. PG&E states the proposed estimation method would likely yield a lower PGC than a calculation based on actual usage, since it is based on a conservative estimate of the hours of facility operation. PG&E did not provide a sample calculation.

Energy Division agrees with the protestants who argue there is no accepted method of estimating departing load. While it may be possible to develop such a methodology, we find no need because we reject the fundamental premise that AB 58 requires net metering customers to pay PGC on departing load.

The Commission already exempts customers eligible for net metering from departing load charges.

In April 2003, the Commission rejected proposals to bill net metering customers per kWh charges on usage other than net consumption. Decision (D.) 03-04-060 exempted customers eligible for net metering from paying Cost Responsibility Surcharges (CRS) for DWR bond and power charges on departing load. The Commission stated that by definition, net metering customers do not bypass these charges, since they continue to pay DWR costs based on their net energy consumption. The Commission also found that "all other tariff components are applicable to the *net* consumption of such customers…" (emphasis added).

PG&E counters that D.03-04-060 exempted net metered customers from the CRS, but does not specifically address the PGC. In D. 03-04-060, the Commission discussed the basis for exempting net metered customers from CRS calculated on departing load. We believe D.03-04-060 signalled the Commission's preference to exclude net metered customers from charges assessed on departing load.

California encourages renewable generation through rebates and tax credits. Departing load charges are contrary to California's renewables policies.

In response to the energy crisis, the Legislature adopted several laws to encourage installation of renewable energy resources. Collectively, the laws provide financial incentives for renewables (AB 970), expand eligibility requirements for net metering (ABX1-29), and increase the amount of renewable energy procured by California utilities (SB 1038.) We agree with protestants that assessing charges on renewable departing load could serve as an economic disincentive to installation of small wind and solar systems. We believe our interpretation of PU Code §2827 (k) is consistent with these statutes, and with the Commission's implementation of §2827(l) in D.03-04-060 concerning DWR costs.

COMMENTS

Public Utilities Code section 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g)(2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day comment period for the draft of this resolution was neither waived nor reduced. Accordingly, this draft resolution was mailed to parties for comments, and will be placed on the Commission's agenda no earlier than 30 days from today.

FINDINGS

1. On September 24, 2002, Governor Davis signed AB 58 into law.

2. PG&E filed AL 2405-E on August 5, 2003 requesting Commission approval to estimate the departing load of net metered customers for purposes of calculating the PGC.
3. Timely protests were filed by the California Solar Energy Industries Association, Cooperative Community Energy, Denise Devlin, Duane Deister, Marin Solar, Michael Kuddes, and SunStar Energy.
4. Late protests were filed by Clean Power and Greg Williams.
5. Net metering customers are not exempt from paying PGC.
6. AB 58 prohibits any requirement for net-metered customers to install a meter to measure departing load.
7. In April 2003, the Commission rejected proposals to bill net metering customers for per kWh charges on usage other than net consumption.
8. The PGC shall be calculated based on net consumption.
9. Basing the PGC on net consumption is consistent with the Commission's implementation of §2827 (l) in D.03-04-030.
10. PG&E's advice letter is denied.

THEREFORE IT IS ORDERED THAT:

1. Advice Letter 2405-E requesting Commission authority to estimate the departing load of a net metering customer for purposes of calculating the PGC is denied.
2. This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on December 18, 2003; the following Commissioners voting favorably thereon:

WILLIAM AHERN
Executive Director